



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/672,648

09/26/2003

Jeyhan Karaoguz

15032US02

8226

23446 7590 03/25/2011
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

EXAMINER

BATES, KEVIN T

ART UNIT

PAPER NUMBER

2456

MAIL DATE

DELIVERY MODE

03/25/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/672,648	Applicant(s) KARAOGUZ ET AL.	
	Examiner KEVIN BATES	Art Unit 2456	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2-16-2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 36-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 36-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

This Office Action is in response to a communication made on February 16, 2011.

Claims 54-55 are newly added

Claims 1-14 and 36-55 are pending in this application.

Finality

The claims of an application for which a request for continued examination (RCE) has been filed may be finally rejected in the action immediately subsequent to the filing of the RCE (with a submission and fee under 37 CFR 1.114) where all the claims in the application after the entry of the submission under 37 CFR 1.114 (A) are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114, and (B) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to the filing of the RCE under 37 CFR 1.114. MPEP §706.07(b).

In this application, the new claims 54 and 55 only comprise the deleted material from claims 1 and 36. Those amendments have not necessitated a new grounds or further search and consideration. The grounds of rejection have been maintained, but have been updated to correspond with the claim amendments. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this application.

Response to Arguments

Applicant's arguments filed February 16, 2011 have been fully considered but they are not persuasive. Please note that many of these argument are repeated from the pervious response filed November 3, 2010 and were fully responded to by the examiner.

The applicant argues that Ellis '208 fails to disclose a user at a first location defining and creating a schedule of media, which is then pushed from the first location to a peripheral at a second location. See Remarks, pp 12-14. The applicant further asserts that the examiner has previously indicated that those limitations were not taught by Ellis '208 in an Office Action issued February 2, 2009. See *id.* at 14. These arguments were additionally argued in the response filed November 3, 2010. See remarks, pp 10-13.

The examiner has reconsidered the applicant's remarks and respectfully disagrees:

In the Office Action mailed February 2, 2009, the examiner maintained the same reference, Ellis '208, and citations for creating the media and pushing the media as relied upon in the pervious office action. See Non-Final action, mailed 2/2/2009, pg 3. However, the prior art rejection did rely upon a secondary reference to provide the teaching of “**using a TV**” to create, schedule and push media to a second location. See *id.* The key limitation being the requirement that the user utilized a television to perform those actions, a limitation which is still being taught by a secondary reference in the rejection listed above.

Ellis '208 teaches that a first set-top-box can be used to schedule media and restriction channels and have those settings transferred to other geographic locations in a house. See ¶12. While Ellis '208 does not teach a more sophisticated system of recording or creating media, then pushing the media according to a playlist or a user generated electronic guide or something of that sort, that type of complexity is not required based on the breadth of the claim, despite the assertions of the applicant. The key concept being that Ellis '208 teaches scheduling media and that media is pushed to the second location, however, the examiner agrees that Ellis '208 does not teach that the media is being pushed from the first location to a second location. However, Ellis '926 does provide a teaching of creating sophisticated playlists and pushing user stored media to other devices. See Col. 3, lines 19 – 29; Col. 7, lines 27-37.

(A) The applicant argues the combination of Ellis '208 and Ellis '926 fails to teach communicating in a peer-to-peer manner the one or more media channels from the first or the second location. See Remarks, pp 15-16. (B) The applicant further argues that Ellis '926 fails to disclose a media peripheral coupled to the system of the second user. See *id.* (C) The applicant also argues that Ellis '926 fails to teach the first user transmitting or pushing the media channel according to the schedule. See *id.* These arguments were additionally argued in the response filed November 3, 2010. See remarks, pp 13-15.

The examiner disagrees:

(A) The instant specification described the peer-to-peer manner in the form of a user at a first location pushing the media channel "via a peer-to-peer server" to a second location. See Specification, pg 32. Ellis '926 teaches a system involving a first user (contributor) to his peers (viewers) by either direct connection or via a distribution server. See Col. 7, lines 28 – 47. As result, Ellis '926 provides the teaching that media channels can be pushed from the first user to a second user using a more actual direct peer-to-peer, server free manner, or in a process that is more closely described in the applicant's specification.

(B) Ellis '926 discloses that user equipment is defined as televisions and personal computers. See Col. 1, lines 47 - 52. The instant specification defines Media peripheral as including at least a personal computer. See Specification pg 7.

(C) Claim 1 recites the limitation "pushing media from the first location to the at least one media peripheral at a second location according to the user-defined schedule created at the first location." Thus the claim requires the media being pushed from a first location to a second "according to the user-defined schedule". Ellis '926 teaches at least a contributor sending the channel to a distribution server, which pushes the media to the viewer on demand or according to a schedule (established by the operator). See Col. 7, lines 44-48. As result, the media is pushed by the contributor, received by the view, and this all occurred according to a defined schedule, as required by the claim language.

The applicant argues that it is not well known to one of ordinary skill in the art to communicate in a peer-to-peer manner, the one or more media channels from the first location to the second location. See Remarks, pg 15-16.

The examiner disagrees:

The examiner, despite the applicant's assertion, did not rely on "official notice" to teach that entire limitation. Communicating media channels in a peer-to-peer manner was taught by the combination of Ellis '208 and Ellis '926. The examiner is only relying on "official notice" that sending communication transmissions over public network can be transmitted in a closed in secure communication. That assertion has not been properly traversed by the applicant. One of ordinary skill with that knowledge would combine the idea of a closed and secure location to improve the combination of Ellis '208 and Ellis '908 to provide secure communication for the transmitted channels. As result, it is the combination of Ellis '208, Ellis '926, and the "official notice" which is being relied upon by the examiner to teach the noted limitation.

The applicant has challenged the Official Notice provision that "communicating in a peer-to-peer manner the one or more media channels from the first to a second location" and that the examiner is required to give support by evidence or affidavit. See remarks, pp 16-17.

The examiner disagrees:

First the applicant is misconstruing the scope of the official notice. The examiner is only using official notice to support the factual statement of "communication streams

Art Unit: 2456

sent over the Internet is able to be sent over a secure connection.” That factual statement has not been properly traversed by applicant. To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner’s action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. *See* 37 CFR 1.111(b); *see also Chevenard*, 139 F.2d at 713, (“[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention.”). A general allegation that the claims define a patentable invention without any reference to the examiner’s assertion of official notice would be inadequate. MPEP §2144.03. Here the applicant has merely provided a request to show evidence, but has not pointed out any supposed errors in the factual statement. The applicant’s traversal of the examiner’s official notice is inadequate and the factual statement of “communication streams sent over the Internet is able to be sent over a secure connection” is taken to be **admitted prior art**.

See id.

The applicant argues that the combination of Ellis ‘208, Ellis ‘926, and ON does not teach each and every iterated limitation of claims 5 and 40.

The examiner disagrees:

Claims 5 and 40 only require “one of” the iterated limitations. *See* line 2, of claim 5. Ellis ‘208 teaches at least changing settings or “parameters” of the media peripheral of the second system. *See* ¶101.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 12-14, 36-45, 47-49, 51, and 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis (2005/0028208) (hereinafter “Ellis ‘208”) in view of Ellis (6774926) (hereinafter “Ellis ‘926”) and in further view of common knowledge in the art.

Regarding claims 1 and 36, Ellis ‘208 teaches a method to indirectly control at least one media peripheral via a communication network, the method comprising:

creating a user-defined schedule of media using the television at the first geographical location (§§99-100); and

pushing the media to the at least one media peripheral at the second geographical location according the user-defined schedule of media (§§99-100).

Ellis ‘208 does not explicitly indicate automatically determining authorization of the performance of the selected operation;

performing the selected operation on the at least one media peripheral if the authorization is successful; not performing the selected operation on the at least one

Art Unit: 2456

media peripheral if the authorization is not successful; or defining a schedule of media at a first location using the TV and pushing the media from that location, constructing, at the first location, one or more media channels from user selected and scheduled media content; and communicating in a peer-to-peer manner the one or more media channels from the first location to the second location via a closed and secure communication.

Ellis '926 teaches a personal television channel system that teaches creating a schedule of media (Col. 3, lines 19 - 29) using among other things, a media peripheral (Col. 1, lines 47 – 52) where that playlist and all media can be available to be pushed to many locations and devices including being transmitted in a peer-to-peer system for receipt at a geographically remote media peripheral (Col. 7, lines 27 - 37; 49 – 57).

It would have been obvious to one of ordinary skill in the art at the time the invention was made that one can use Ellis '926 teaching of video production and distribution would allow someone to improve Ellis '208' system to organize and create video or content playlists and have them distributed to any other system component in the network. One would be motivated to do so, to allow the user to create and view videos in a highly available and customized way anywhere in a home network.

The examiner takes further “**official notice**” that communication streams sent over the Internet is able to be sent over a secure connection. It would have been obvious to one of ordinary skill in the art the time the invention was made to use the well known teaching of secure connections to improve Ellis '208's system. One would do so to protect the system against malicious or other harmful commands and users from

Art Unit: 2456

affecting the use and enjoyment of the system over a public communication. See MPEP §2144.03.

Regarding claims 54 and 55, Elli's '208 teaches the method of claims 1 and 36, further comprising:

identifying by a first system comprising a television, at a first location, the at least one media peripheral communicatively coupled to a second system, at a second location, wherein the first and second locations are separate and distinct from one another (§71, 74, the first system is the remote program access device and the second system is the user television equipment);

automatically establishing a communication link between the first system comprising the television (§92, where a CRT monitor can be considered a television; Ellis '208 further later details that a user television/set-top-box can be used as the device to remotely control a program guide, see §204; 217-218); and the at least one media peripheral (§71; 86; 103-104);

selecting, using the television at the first location, an operation of the at least one media peripheral (§107);

requesting performance of the selected operation on the at least one media peripheral using the television at the first geographical location (§110);

Ellis '208 does not explicitly indicate automatically determining authorization of the performance of the selected operation;

performing the selected operation on the at least one media peripheral if the authorization is successful; not performing the selected operation on the at least one media peripheral if the authorization is not successful.

The examiner takes “**official notice**” that when remotely connecting to user equipment it would be obvious to authenticate or authorize a user request before perform that operation at the connected to system.

It would have been obvious to one of ordinary skill in the art the time the invention was made to use the well known teaching of authorizing commands from clients to ensure that no malicious users can access and potentially harm the peripheral devices in Ellis '208.

Regarding claims 3 and 38, Ellis '208 teaches the method of claims 1 and 36; wherein the at least one media peripheral comprises a processor running at least one of media capture software and media player software (§100, the VCR).

Regarding claims 4 and 39, Ellis '208 teaches the method of claims 54 and 55 wherein the communication link is established via a wired or a wireless connection (§76).

Regarding claims 5 and 40, Ellis '208 teaches the method of claims 54 and 55; wherein the operation comprises one of: powering said media peripheral on or off; scanning said media peripheral in angle about at least one axis of rotation; transferring stored media from the media peripheral to the first system; transferring stored media from the first system to the media peripheral; transferring software from the first system

Art Unit: 2456

to the media peripheral; transferring status information from the media peripheral to the first system; initiating a test of the media peripheral; initiating a trick mode of the media peripheral; determining whether the media peripheral is within communication range of the second system; putting the media peripheral into a sleep state; and changing a parameter of the media peripheral (§101).

Regarding claims 6 and 41, Ellis '208 teaches the method of claims 54 and 55, wherein at least one of the first system and the second system comprises a set-top-box based media processing system (§82).

Regarding claims 7 and 42, Ellis '208 teaches the method of claims 54 and 55, wherein at least one of the first system and the second system comprises a personal computer based media processing system (§82).

Regarding claims 8 and 43, Ellis '208 teaches the method of claims 54 and 55; wherein at least one of the first system and the second system comprises a television based media processing system (§82).

Regarding claims 9 and 44, Ellis '208 teaches the method of claims 54 and 55 wherein the first system comprises a server of a media provider (Fig. 2b, wherein the remote access device communicate to the user television equipment through the distribution facility).

Regarding claims 10 and 45, Ellis '208 teaches the method of claims 54 and 55 wherein the first system comprises a server of a service provider (Fig. 6a, wherein the remote access device access the user equipment through the internet service system).

Regarding claims 12 and 47, Ellis '208 teaches the method of claims 54 and 55 wherein the establishing the communication link is initiated by the first system (§100).

Regarding claims 13 and 48, Ellis '208 teaches the method of claims 54 and 55, wherein the establishing the communication link is initiated via a telephone call (§93).

Regarding claims 14 and 49, Ellis '208 teaches the method of claims 54 and 55 wherein the establishing the communication link is initiated via a web site (§101).

Regarding claims 50 and 52, Ellis '208 teaches the method of claims 1 and 36, wherein the first geographic location and second geographical location are located within a first and a second home (§12).

Regarding claims 2 and 37, Ellis '208 teaches the method of claims 1 and 36 and media peripherals (§107).

Ellis '208 does not explicitly indicate wherein the at least one media peripheral comprises one of a digital camera, a personal computer, a digital camcorder, a MP3 player, a mobile multi-media gateway, a home juke-box, and a personal digital assistant.

Ellis '926 teaches a media peripheral that includes one of a digital camera, a personal computer, a digital camcorder, a MP3 player, a mobile multi-media gateway, a home juke-box, and a personal digital assistant (Col. 1, lines 47 – 52).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the many other devices controlled in Ellis '926 in order to expand the variety of devices that can be remotely controlled in Ellis '208.

Regarding claims 51 and 53, Ellis '208 in combination with Ellis '926 teaches the method of claims 1 and 36 that the user defined schedule of media comprises a plurality of media content scheduled according to date and time (Ellis '926, Fig 14).

Claims 11 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis '208 in view of Ellis '926 and Examiner's "Official Notice", and in further view of Daum (6665384).

Regarding claims 11 and 46, Ellis '208 teaches the method of claims 1 and 36.

Ellis '208 does not explicitly indicate wherein the first system comprises a server of a peripheral manufacturer.

Daum teaches a remote control of appliances that includes the controlling party being the manufacturer (Column 2, lines 25 – 36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Daum's teaching of allowing the manufacturer to control the devices in Ellis '208, in order to take advantage of any support and monitoring the manufacturing provides for home items.

Conclusion

All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS**

Art Unit: 2456

MADE FINAL even though it is a first action in this case. See MPEP § 706.07(b).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN BATES whose telephone number is (571)272-3980. The examiner can normally be reached on M-F 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2456

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KEVIN BATES/

Primary Examiner, Art Unit 2456